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VIA ECF & EMAIL

May 22, 2025

Honorable Andrew L. Carter, Jr.
United States District Court
Thurgood Marshall United States Courthouse
40 Foley Square
New York, New York 10007

***Re: SEC v. Silvergate Capital Corporation, et al., No. 24 Civ. 4987 (ALC) (S.D.N.Y.),
Defendant Antonio Martino's Request for Pre-Motion Conference***

Dear Judge Carter:

Mr. Martino respectfully submits this letter in reply to two discrete assertions in the SEC's letter (ECF No. 50). **First**, the SEC claims that Mr. Martino "proposed to the SEC that, while his motion to dismiss is pending, the SEC alone (not Martino) provide discovery." ECF No. 50 at 1, n.1. This is a false mischaracterization. Instead, Mr. Martino proposed that if progressing discovery now is important, during the short pendency of the motion to dismiss decision, after the SEC declined to pursue any discovery for the first 11 months of the case, then it should begin with the limited step of providing the SEC's existing case file. This would have: (a) placed no meaningful burden on the SEC; (b) made any eventual discovery much more efficient; and (c) preserved the parties' and the court's resources, eliminating or narrowing related discovery requests, and the instant dispute. The SEC rejected that proposal.

Second, the SEC claims that it "would be prejudiced by a stay of discovery—due both to SCC's bankruptcy filing and the need to preserve witness testimony." *Id.* at 2. The SEC reasons that SCC "appears headed towards liquidation." *Id.* However, SCC filed for bankruptcy (and liquidation) in September 2024, and for months, it has had few employees or other resources for this matter. Thus, the SEC's purported difficulty in obtaining discovery because of the bankruptcy already exists, and will cause any discovery to uniquely burden Mr. Martino. Besides, during its extensive pre-suit investigation: (a) as stated in ECF No. 49 at 1, the SEC obtained a massive quantity of documents from SCC, and interviewed SCC personnel; and (b) contrary to the suggestion in the SEC's letter, we understand that the SEC has already obtained documents related to, and/or interviewed, individuals who "reported to Martino at Silvergate Bank" and relevant third parties. ECF No. 50 at 2.

Thank you for the Court's continued consideration.

Respectfully submitted,

/s/ Adam Lurie

Adam Lurie

cc: All parties of record (via ECF)